

**THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RONALD JORDAN,
ROBERT McKAY,
and
THE MBTA POLICE
PATROLMAN’S UNION;
Plaintiffs,

v.

JOSEPH C. CARTER,
Individually and as Chief of the
MBTA Police Department,
and
THE
MBTA POLICE DEPARTMENT
Defendants.

Civil Action No. 04-10927 RGS

Joint Statement

I. Nature and basis of claims and defenses

A. Claims:

1. Restrictions are violations of Due Process based upon Constitutions of Commonwealth and U.S.
2. Violation of First Amendment rights of Free Speech and Freedom of Association based upon the Constitutions of the Commonwealth and the U.S.
3. Illegal search and analysis of recorded phone conversations based upon the intention of the MBTA to use recordings for a legitimate business purpose.
4. Intentional infliction of emotional distress

B. Defenses:

Briefly, defendants contend that the restrictions imposed on the plaintiffs, and the subsequent termination of their employment, were legitimate measures undertaken to address the plaintiffs' serious misconduct, including their unlawful use of Criminal Offender Record Information with no legitimate law enforcement purpose. In any case, the statements for which they claim they were disciplined were not protected comments on matters of public concern, and the defendants' interest in lawful, efficient, and effective performance of public services substantially outweighs the plaintiffs' interest in making the statements at issue.

II. Possibility of Settlement: The parties do not consider settlement to be likely.

III. Disclosures and Certification:

- Plaintiffs Disclosures and Certifications are forthcoming
- Defendant has Provided Disclosures and Certifications to the Plaintiff.

IV. Proposed Discovery plan:

Conform to the obligation to limit discovery set forth in F.R.Civ.P.26(b) and L.R.26.1(c): 10 depositions, 25 interrogatories, 25 requests for admissions, 2 separate sets of requests for production. The parties do not propose to phase discovery.

V. Proposed Schedule for filing of motions

A. By October 1, 2004:

1. Rule 12, 15, 19 and 20 motions served and heard.

B. By February 4, 2005:

1. Discovery requests served and depositions completed
2. Requests for admissions completed

C. By March 4, 2005:

1. Rule 56 motions filed

D. Final pretrial conference to be scheduled at the Court's convenience, but no less than sixty days after decision on summary judgment motions

Respectfully submitted,

RONALD JORDAN
ROBERT McKAY
MBTA POLICE PATROLMAN'S
UNION

JOSEPH C. CARTER
MBTA POLICE DEPARTMENT

By their attorneys,

By their attorneys,

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